

CLOSE OUT SALES LICENSE



From Scottsdale City Code

NOTICE TO TAXPAYERS

This booklet incorporates sections of the City Code of the City of Scottsdale as it relates to Close Out Sales licenses.

It is our hope that this booklet will assist you in understanding the licensing law.

For any additional information or clarification, please call (480) 312-2400.

	Ordinance Number	Adopted	Effective
Revised	2375	7/15/91	8/14/91

TABLE OF CONTENTS

CHAPTER 16 ARTICLE 8

16-261	Definitions
16-262	Exemptions
16-263	Purchase of goods in contemplation of sale
16-264	Removal of inventoried goods from place of sale
16-265	Books and records
16-281	License required
16-282	Application
16-283	Investigation
16-284	Issuance or denial
16-284.1	Review and appeals
16-285	Filing fee and deposit for privilege tax
16-286	Period of ownership prior to sale
16-287	Contents
16-288	Conditions
16-289	Maximum duration
16-290	Renewal
16-291	Second sale within five years
16-292	Sales in violation of license
16-293	Display; Comparison of merchandise with stock list
16-294	Revocation

CHAPTER 16
LICENSES, TAXATION AND MISCELLANEOUS BUSINESS
REGULATIONS

ARTICLE VIII. CLOSE-OUT SALES

DIVISION 1. GENERALLY

Sec. 16-261. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

"Advertise" means all methods, whether oral, written, lettered or printed, used for conveying to the public, notice of the conduct of a sale, or notice of intention to conduct a sale, including but not limited to, oral or written announcements by public proclamation or outcry, newspaper advertisement, magazine advertisement, handbill, written or printed notice, printed display, billboard display, poster, radio and television announcement. "Advertise" includes the terms advertisement, advertising, publish and publication.

"Goods" means any goods, wares, merchandise, or other property capable of being the object of a sale.

"Inspector" means an inspector appointed by or authorized by the City Treasurer.

"License" means any license or renewal thereof issued pursuant to the terms of this article.

"Licensee" means any person to whom a license or renewal thereof has been issued pursuant to the terms of this article.

"Sale" means any of the following:

- (1) Any sale of or any offer to sell to the public, or any group, thereof, goods, wares or merchandise, on order, in transit or in stock, in connection with a declared purpose, as set forth by advertising that such sale is anticipatory to or to avoid the termination, liquidation, revision, windup, discontinuance, removal, dissolution or abandonment of the business or that portion of the business conducted at any location.
- (2) All sales advertised which in any manner do or are calculated to convey to the public the belief that upon the disposal of the goods to be placed on sale, the business or that portion thereof being conducted at any location, will cease, be removed, be interrupted, discontinued or changed.
- (3) All sales advertised which in any manner do or are calculated to indicate that the goods, wares or merchandise to be sold, or any part thereof, have been involved in any business failure or have been derived from a business which has failed, been closed, discontinued or liquidated.
- (4) All sales accompanied by notices or advertising indicating that the premises are available for purchase or lease or are otherwise to be vacated.
- (5) All sales accompanied by advertising indicating a business emergency or failure affecting the seller or any previous holder of the goods to be disposed of.
- (6) All sales held out in such a manner as to reasonably cause the public to believe that the sale will offer goods damaged or altered by fire, smoke, water or other means.

Sec. 16-262. Exemptions.

The provisions of this article shall not apply to:

- (1) Persons acting pursuant to an order or process of a court of competent jurisdiction.
- (2) Persons acting in accordance with their powers and duties as public officers, such as sheriffs and marshals.
- (3) Any publisher of a newspaper, magazine or other publication, who publishes in good faith, any advertisement, without knowledge of its false, deceptive or misleading character, or without knowledge that the provisions of this article have not been complied with.

Sec. 16-263. Purchase of goods in contemplation of sale.

(a) No person in contemplation of conducting any sale or special sale, or during the continuance of a sale, shall order any goods, wares or merchandise for the purpose of selling them at the sale, and any unusual purchase, or additions to the stock of goods, wares or merchandise, within ninety (90) days next preceding the filing of the application for a license to conduct the sale, shall be prima facie evidence that the purchase or additions were made in contemplation of the sale and for the purpose of selling them at such sale.

(b) For purposes of subsection (a), unusual purchases or additions to the goods of the business shall mean any purchases on consignment or which cause the inventory at time of application to exceed by more than fifteen (15) percent the average inventory maintained, upon a monthly basis, for the twelve (12) calendar months immediately prior to the date of application. Purchases may be subject to confirmation from the vendor.

Sec. 16-264. Removal of inventoried goods from place of sale.

Any removal of goods, wares or merchandise inventoried and described in the original application form from the place of

sale mentioned in the application shall cause the goods to lose their identity as the stock of the sale, and no license thereafter shall be issued for the conducting of a sale of any such goods, wares or merchandise in such manner as to identify them with the store, store name, store owner or location referred to in the original application.

Sec. 16-265. Books and records.

Suitable books and records, including but not limited to total receipts of both cash and credit sales, shall be kept by the licensee and shall at all times be available to the inspector or investigator. Suitable records must be provided to ascertain that all city requirements have been met. Refusal to provide any documentation requested prior to the issue of the license will result in its denial. Refusal to provide any documentation requested after the issue of the license within five (5) working days will result in the revocation of the license.

Secs. 16-266-16-280. Reserved.

DIVISION 2. LICENSE

Sec. 16-281. Required.

No person shall publish or conduct any sale without a license therefore from the City Treasurer.

Sec. 16-282. Application.

(a) No license to conduct a sale shall be granted except upon written application to the City Treasurer signed and verified before a notary public by the person who intends to conduct the sale, giving an address at which notices may be received.

(b) Each application shall set forth the following information:

- (1) A description, by street location and kind of building, of the location at which the sale is to be held.
- (2) The nature of the occupancy, whether by ownership, lease or sublease, and if by lease or sublease, the effective date of the termination of the tenancy.
- (3) A copy of all advertisements or a statement of all advertising themes proposed to be used in connection with the sale, and a statement of the means or methods of advertising to be used in advertising the sale.
- (4) The facts in regard to the insurance, bankruptcy, solvency, casualty, assignment, mortgage, foreclosure, administration, receivership, trusteeship removal, executorship removal or other cause advertised to be the reason for the proposed sale.
- (5) A complete and detailed inventory and the original cost of the goods to be sold in such sale, as disclosed by the applicant's records. The inventory shall be attached to and become a part of the required application. All goods included in such inventory shall have been purchased by the applicant for resale on bona fide orders without cancellation privileges.
- (6) The name, address and phone number of any person contracting with the applicant for the purpose of aiding in the contemplated close-out sale.
- (7) A statement that the business out of which the sale is to be held is to be terminated permanently where such sale is to be held or, if the business is to be removed to or continued at another place or places,

description of that place, which may be by street address, the date upon which such removed business will commence, and the name and designation under which the applicant will commence such business.

Sec. 16-283. Investigation.

Upon the filing of the application for a license, the City Treasurer shall examine, audit or investigate the applicant and his affairs in relation to the proposed sale and determine the accuracy of the inventory furnished by the applicant. If deemed necessary by him, the City Treasurer shall notify the applicant in writing to appear and explain any answers to the application or items contained in the inventory list. The applicant shall appear with or without legal counsel at the date, time and place specified in the notice.

Sec. 16-284. Issuance or denial.

(a) The City Treasurer shall, not less than fifteen (15) days before the date the sale is to commence, either issue or deny the license to conduct the sale in accordance with the provisions of this article. The City Treasurer shall issue the license unless:

- (1) The applicant is in violation of this article, in which case the provisions violated shall be set forth in the denial.
- (2) The information submitted by the applicant is falsified.
- (3) The information set forth in the application is insufficient, in which event the applicant may file an amended application before the refusal becomes final.

(b) In the event refusal is based on the context of proposed advertising, the applicant shall be contacted and permitted to submit revised advertising copy prior to the time the denial of a license becomes final.

(c) The applicant had a previous license revoked within three (3) years from the date of the current application.

Sec. 16-284.1. Review and appeals.

Any person aggrieved by any decision with respect to either the denial of or a refusal to issue a license, or the revocation of a license which is subject to this article, shall be entitled to the review and appeal procedures provided in article I of this chapter.

Sec. 16-285. Filing fee and deposit for privilege tax.

(a) No application for a license shall be accepted by the City Treasurer unless accompanied by a nonrefundable filing fee of twenty-five dollars (\$25.00). All applications for a license shall be made at least thirty (30) days and not more than sixty (60) days before the date on which the sale is to commence.

(b) All applications for a license herein shall be accompanied by an additional sum equivalent to one (1) percent of the cost value of the inventory filed with the original application. Such additional sum shall be applied as a credit against the privilege tax due in connection with the sale.

Sec. 16-286. Period of ownership prior to sale.

Any person who has not been the owner of a business advertised or described in the application for a license under this article for a period of at least ninety (90) days prior to the date of the proposed sale shall not be granted a license.

Sec. 16-287. Contents.

Each license issued under the provisions of this article shall have printed, written or stamped on the face thereof:

- (1) A statement that the license is granted by and accepted by the licensee upon the condition that the licensee shall comply with this article.
- (2) The expiration date.

At the time of the delivery of the license, the statement shall be signed by the licensee in the presence of an employee of the city who shall sign as witness.

Sec. 16-288. Conditions.

(a) A license issued under the provisions of this article shall authorize the type of sale named in the application, at the place named therein, for a period of not more than thirty (30) calendar days, and shall permit the sale of only those goods which are set out in the application, all of which goods throughout the duration of the sale shall be definitely separated from any other goods displayed at, or within the store or place of business. All advertising, signs or notices referring to or calling attention to the sale shall be confined to the display, or displayed goods involved in the sale.

(b) A license issued under the provisions of this article shall not be assignable nor transferrable.

Sec. 16-289. Maximum duration.

The City Treasurer shall not issue licenses or renewals which will allow the conduct of any sale of any kind named in this article, for any one (1) applicant at any one (1) location for more than sixty (60) calendar days in any sixty-month period.

Sec. 16-290. Renewal.

(a) The City Treasurer may, upon a verified application thereof, renew a license for a period of not to exceed thirty (30) days, upon the payment of a renewal fee in the amount of ten dollars (10.00). The verified application for renewal shall set forth a complete list of goods listed in the original application and remaining unsold, and shall certify that it does not contain any goods, wares or merchandise not named in the original application.

(b) Upon receipt of the application for renewal, the City Treasurer shall grant the renewal within five (5) days after receipt of the application, which shall be endorsed and signed as provided for the original license. The City Treasurer may renew any original license in the manner provided in this section not to exceed one (1) renewal, upon the payment of the sum of ten dollars (\$10.00).

Sec. 16-291. Second sale within five years.

No license shall be granted to any applicant who has held a sale, as defined in this article, at the location stated in the application, within five (5) years from the date of the application. Nothing in this section shall be construed to be in conflict with sections 16-289 and 16-290.

Sec. 16-292. Sales in violation of license.

(a) A license issued under the provisions of this article shall be valid only for the advertising. Representations and sale of the particular goods, wares or merchandise described in the original application therefor, and the particular time, and particular place stated therein and by the particular applicant or his executor or administrator, and any renewal, replenishment or substitution of such goods, wares or merchandise or change

of time or place for the sale or change of person conducting the sale is unlawful and shall render the license void.

(b) Each sale of goods, wares or merchandise which were not inventoried and described in the original application shall constitute a separate offense.

Sec. 16-293. Display; comparison of merchandise with stock list.

Upon commencement and throughout the duration of any sale conducted under the terms of this article, the license issued by the city shall be prominently displayed near the entrance to the premises. A duplicate original of the application and stock list pursuant to which the license was issued shall at all times be available to the City Treasurer, or to his inspector or investigator, and the license shall permit the inspector or investigator to examine all merchandise in the premises for comparison with the stock list.

Sec. 16-294. Revocation.

The City Treasurer may revoke any license granted under the terms of this article whenever any sale or special sale is being conducted in violation of any provision of this article or in such manner as to deceive or defraud the public, or if the holder of the license has:

- (1) Made any material misstatement in the application for the license.
- (2) Been guilty of any fraudulent practice or practices in the conduct of the sale authorized by the license.
- (3) Failed to include in the inventory required by the provisions of this article the goods, wares or merchandise required to be contained in the inventory.

- (4) Added, caused to be added or permitted to be added, any goods, wares or merchandise not described in the original inventory.
- (5) Violated any provision of the ordinance pertaining to the conduct of the business within the city.

Secs. 16-295-16-310. Reserved.

INDEX

	Page
Appeals	7
Application	4
Books and records	4
Conditions	8
Contents of license	8
Definitions	1
Denial	6
Display of license and stock list	10
Exemptions	2
Fees:	
Original	7
Renewal	9
Investigation	6
Issuance of license	6
Maximum duration	8
Period of ownership	7
Purchase of goods	3
Removal of inventoried goods	3
Renewal	9
Review and appeals	7
Revocation	10
Sales in violation of license	9